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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,561	04/19/2004	William L. Stonecipher	132.02	3211

37761 7590 08/18/2006

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EXAMINER

LEWIN, ALLANA

ART UNIT PAPER NUMBER

3764

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/827,561	Applicant(s) STONECIPHER, WILLIAM L.	
	Examiner Allana Lewin	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14 and 23-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☒ Claim(s) 23-29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 23 and 28 are objected to because of the following informalities: the recitation 'center bar' in line 3 of claim 23 and line 3 of claim 28 lacks sufficient antecedent. Presumably the recitation 'center bar' should instead be 'cross bar' as recited in line 1. Appropriate correction is required.
2. Claim 29 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 29 is identical to claim 27 and both claims depend from independent claim 23. Therefore, as claimed, claim 29 fails to further limit the limitations presented in claims 23 and 27.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 8-11 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Allen (US Pat. No. 7,081,072).
5. Allen discloses an exercise device comprising a center bar (26) having opposite ends; a pair of bar clamps (10) or 'end bars' (10), extending approximately perpendicular to the center bar (note Figure 7), and which are rotatably secured to the opposite ends of the center bar (note Figure 7) as the bar clamps (10) include tubular

extensions (13) that Allen teaches may then threadably attach to the center bar (column 3, lines 19-21). The threaded engagement between the tubular extension and the center bar that causes the bar clamps or 'end bars' rotatably secured and also causes the bar clamps/end bars to be removably securable to the center bar. Allen further discloses a strap (14), which, absent further limitation, comprehends Applicant's 'grip member', that is removably securable and in coaxial alignment with the bar clamps/end bars (note Figures 3-6). The strap/grip member has an axial bore formed therein and extending along a central axis of the grip member to receive the bar clamp/end bar (note Figure 4), as well as an opening or cross bore (17) formed therein and extending generally transverse to the axial bore and receiving an outer portion of the center bar via tubular extension (13) *when* the strap/grip member is secured to the bar clamp/end bar (note Figure 4). *When* the strap/grip member is secured to the bar clamp/grip member the opening or cross bore does extend generally transverse to the axial bore that is formed along the central axis of the strap/grip member which receives the bar clamp/end bar. Regarding claim 11, the strap comprehends Applicants 'fastening mechanism' as Allen teaches the strap having hook and loop material thereon (15, 16) which provides a releasable connection of a dumbbell or weight member to the bar clamp/end bar (column 3, lines 24-26).

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Anderson et al. (US Pat. No. 6,770,016).

7. Allen, discussed in detail above, fails to specifically disclose each of the grip members having a diameter in a range of approximately four to six inches. Allen does, however, teach the strap/grip being fastened around the bar clamp, thereby securing a dumbbell to the device, with hook and loop fastener (column 3, lines 10-14) which permits the diameter of the strap to be adjusted. Therefore, for a dumbbell or weight member having a larger bar diameter, the diameter of the strap/grip would be larger in order to properly accommodate and secure the dumbbell to the device. Larger bars having a larger diameter, up to 3.5 inches as taught by Anderson (Abstract), requires the strap/grip to have a larger diameter in order to fully go around the bar and effectively secure the weight member to the device. Therefore, the strap/grip would have a diameter in a range of approximately four to six inches in order to secure a bar having a diameter of 3.5 inches. The hook and loop fastener on the strap/grip taught by Allen permits the strap/grip to have a diameter in a range of approximately four to six inches.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Castillo (US Pat. No. 4,867,444).

9. Allen, discussed in detail above, fails to disclose a resilient grip member removably securable coaxially around the center bar.

1. Castillo discloses a resilient grip apparatus for exercise devices that is removably securable about a center bar (note Figure 1 as well as column 4, lines 3-4 and column

4, lines 18-23). Castillo teaches the importance of using grip members when weightlifting in order to ensure proper bone alignment in the hands and wrists so as to avoid or prevent injury. Furthermore, it is known in the art that utilizing resilient grip members provides a cushioning that imparts added comfort to the user when exercising.

2. Based on the teachings of Castillo, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized resilient grip members in the Allen device in order to prevent injuries as well as to provide added comfort to the user while exercising since Allen teaches using the device as a barbell when the dumbbells are attached (column 3, lines 22-23).

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Wedge, Jr. (US Pat. No. 6,129,650).

11. Allen, discussed in detail above, fails to disclose the center bar being length adjustable.

12. Wedge teaches an exercise bar comprising a telescoping and length adjustable center bar (note Figure 2) which allows the device to accommodate persons of different sizes using the device, as well as enables the device to be used for a wider range of exercises (column 4, lines 38-43).

13. Based on the teachings of Wedge, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a length adjustable cross bar in the Allen device in order to make the device accommodating for

many users and to allow the device to be used for various exercises thereby providing added functionality and versatility to the device.

Allowable Subject Matter

14. Claims 23-29 would be allowable if rewritten to overcome the claim objections set forth in this Office action.

Response to Arguments

15. Applicant's arguments with respect to claims 8-14 have been considered but are moot in view of the new ground(s) of rejection.

Terminal Disclaimer

16. The terminal disclaimer filed on May 30th, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Pat. No. 6,726,599 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


Art Unit: 3764

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allana Lewin whose telephone number is 571-272-5560. The examiner can normally be reached on Monday-Friday, 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AL August 17th, 2006
STEPHEN R. CROW
PRIMARY EXAMINER
ART UNIT 332